IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1634 OF 2005

Gupta Ramji Daftary .. Applicant.
Vs
The Nasik Merchants'
Co-operative Bank Ltd. & Anr. .. Respondents.

Mr.M.K.Nesari for the applicant.
Mr.A.S.Shitole A.P.P. for the State.
Mr.Kishore Patil i/b Mr.P.N.Joshi for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 12TH JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. In the instant application the applicant is seeking to quash the judgment and order dated 25.11.2004 passed by the Ist Adhoc Additional Sessions Judge, Nasik dismissing the revision application filed by the petitioner challenging the order of issue of process in the complaint filed by the respondent under section 138 of the Negotiable Instruments Act. The learned Additional Sessions Judge did not enter into merits of the case holding that the revision is not maintainable against the order of issue of process. It is now well settled that the revision against the order of issue of process is the appropriate and

efficacious remedy available in law. This Court in **V.K.Jain and Others Vs. Pratap V. Padode and Anr. 2005(3) Mh.L.J.778** after considering the various judgments of the Apex Court has reiterated that the remedy of revision against the order of issue of process is maintainable. Keeping that in view the order impugned in the instant application holding that the revision is not maintainable is quashed and set aside. The revision is restored to file. The learned Additional Sessions Judge shall decide the same on merits in accordance with law as expeditiously as possible and preferrably within three months from the date of receipt of this order. The application is, accordingly, disposed of.

(D.B.Bhosale, J.)